HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Crml Leave To Appeal No. 69 / 2017

State of Rajasthan

----Appellant

Versus

Baronch Khan S/o Sahebna Khan, R/o Dehwa Rampura, P.s. Bakhasar, Distt. Barmer.

----Respondent

For Appellant(s) : Mr.L.R.Upadhyay, P.P.

HON'BLE MR. JUSTICE SANDEEP MEHTA

Judgment / Order

09/08/2017

By way of this application under Section 378(iii) & (i) Cr.P.C., the State of Rajasthan craves leave to file an appeal against the judgment dated 17.3.2016 passed by the learned Special Judge (SC/ST Act Cases), Barmer in Sessions Case No.10/2012 (18/2012) whereby the learned trial court acquitted the respondent from the charges under Sections 354 and 457 icp and Section 3(1)(xi) of SC/ST (Prevention of Atrocities) Act.

Facts in brief are that the complainant Smt.R submitted a written report at the P.S. Bakhasar on 7.3.2012 at about 1 PM alleging inter-alia that in the night intervening 5th and 6th March 2012, at about 1 O'clock, she was sleeping inside a room in her house. Baronch Khan forcibly opened the door of the room and entered therein. He assaulted the first informant by kicks and slaps and tried to rape her forcibly. She shouted and on hearing her cries, Jagsi Ram and Mahadev came there and intervened.

Upon this, the accused ran away. Her husband had gone to Gujarat. Upon his return, the first informant came to lodge the report. On the basis of this report, an F.I.R. was registered against the accused and investigation commenced. After investigation, charge-sheet was filed against the accused respondent for the offences under Sections 457 and 354 I.P.C. and Section 3(1)(xi) of SC/ST (Prevention of Atrocities) Act. He pleaded not guilty and claimed trial. Prosecution examined six witnesses in support of its case. In his statement recorded under Section 313 Cr.P.C., the accused claimed false implication on account of political enmity. The trial court after appreciating the evidence of the prosecution witnesses, noticed significant discrepancies in statements of the victim Smt.R P.W.1, Mahadev P.W.3 and Jagsi Ram P.W.4 with reference to the version set out in the written report Ex.P1. The trial court also drew adverse inference against the prosecution for the delay occasioned in lodging of the report and consequently, the accused respondent was acquitted of the charges giving him the benefit of doubt.

Having considered the arguments advanced by the learned Public Prosecutor and after going through the impugned judgment as well as the record, I am duly satisfied with the findings recorded by the trial court in the impugned judgment of acquittal. There are significant contradictions in the version of the prosecutrix as set out in the belated written report, her sworn testimony and the evidence of the witnesses Mahadev and Jagsi Ram, who reached the place of occurrence just after the incident. Jagsi Ram and Mahadev are the brothers in law of the lady and

were indeed present at the scene of occurrence. Thus, there was no reason as to why the complainant waited for almost one whole day before lodging the F.I.R. Consequently, I find no reason to grant leave to the State of Rajasthan for filing an appeal against the impugned judgment of acquittal dated 17.3.2016 which does not suffer from any infirmity either factual or legal so as to warrant interference.

Consequently, this application for leave to appeal is dismissed as being devoid of merit.

(SANDEEP MEHTA)J.

/tarun goyal/

RAJASTHAN HIGH COURT
सत्यमेव जयते